

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Edward Tsigel	Team: Squad #4	CCRB Case #: 201905690	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 06/17/2019 1:37 AM	Location of Incident: 4th Avenue and 18th Street	Precinct: 60	18 Mo. SOL 12/17/2020	EO SOL 8/3/2021	
Date/Time CV Reported Mon, 06/17/2019 1:37 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/28/2019 11:06 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Mellas	29427	953099	HWY 02
2. POM Curt Cunningham	20093	953794	HWY 02

Officer(s)	Allegation	Investigator Recommendation
A.POM Matthew Mellas	Abuse: Police Officer Matthew Mellas stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Curt Cunningham	Abuse: Police Officer Curt Cunningham stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Matthew Mellas	Discourtesy: Police Officer Matthew Mellas spoke discourteously to § 87(2)(b)	
D.POM Curt Cunningham	Abuse: Police Officer Curt Cunningham interfered with § 87(2)(b)'s use of a recording device.	

Case Summary

On June 17, 2019, § 87(2)(b) called the IAB Command Center and filed this complaint. On June 28, 2019 this complaint was received at the CCRB.

On June 17, 2019, at approximately 1:37 AM, PO Matthew Mellas and PO Curt Cunningham, of Highway Patrol 2, pulled over § 87(2)(b) in the vicinity of 4th Avenue and 18th Street in Brooklyn (**Allegation A - Abuse of Authority - § 87(2)(g)**) (**Allegation B - Abuse of Authority - § 87(2)(g)**). PO Mellas allegedly told § 87(2)(b) “Shut the fuck up and give me the license” (**Allegation C - Discourtesy - § 87(2)(g)**). PO Cunningham allegedly interfered with § 87(2)(b)'s phone recording (**Allegation D - Abuse of Authority - § 87(2)(g)**). § 87(2)(b) was issued two summonses: § 87(2)(b) for failure to use designated lane (BR 01) and § 87(2)(b) for improper signal (BR 02).

Cell phone video evidence was provided by § 87(2)(b). Dash camera video with audio was provided by the officers involved.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Matthew Mellas stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: Police Officer Curt Cunningham stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that PO Mellas and PO Cunningham stopped the vehicle that § 87(2)(b) was driving.

§ 87(2)(b) stated that PO Mellas and PO Cunningham stopped his vehicle without a legitimate reason because he did not commit a traffic violation (BR 03).

PO Mellas (BR 04) and PO Cunningham (BR 05) stated that § 87(2)(b) failed to maintain his designated lane and failed to properly signal.

Dash camera footage from the officers' vehicle, shows § 87(2)(b) failing to maintain his lane multiple times between 1:09 and 1:52 and using the right turn signal while turning left between 2:45 and 3:00 (BR 06).

New York State Vehicle and Traffic Law - Section 1128 (BR 10) states that a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety. New York State Vehicle and Traffic Law - Section 1163 (BR 09) states that no person shall so turn any vehicle without giving an appropriate signal.

§ 87(2)(g)

Allegation (C) Discourtesy: Police Officer Matthew Mellas spoke discourteously to § 87(2)(b).

§ 87(2)(b) stated that when PO Mellas approached his vehicle, he asked PO Mellas why he got stopped. PO Mellas said, “Shut the fuck up and give me the license” (BR03).

PO Mellas stated that he never said that phrase nor used the word “fuck” at any time towards § 87(2)(b) (BR 04).

PO Cunningham did not hear PO Mellas ever say that phrase nor did he hear him say the word “fuck” at any time towards § 87(2)(b) (BR 05).

Dash camera footage captured the entirety of PO Mellas' interaction with § 87(2)(b) before he received § 87(2)(b)'s identification between 5:00 and 7:50 (BR 06). The audio throughout the dash camera footage is fully audible throughout the incident. PO Mellas did not say the phrase “Shut the fuck up and give me the license” nor did he say the word “fuck” or use any other discourteous language.

§ 87(2)(g)

§ 87(2)(g)

Allegation (D) Abuse of Authority: Police Officer Curt Cunningham interfered with § 87(2)(b)'s use of a recording device.

§ 87(2)(b) stated that PO Cunningham was pointing a flashlight at his face so that he could not see the officer and so that PO Cunningham could interfere with the recording. § 87(2)(b) believed that PO Cunningham was trying to intimidate him with the use of the flashlight. PO Cunningham never instructed § 87(2)(b) to turn off the recording device nor was the recording a topic of conversation during the incident. § 87(2)(b) never told PO Cunningham to stop pointing the flashlight at his face (BR 03).

PO Cunningham said that he had a flashlight with him and that he flashed it onto § 87(2)(b)'s hands in order to see what he was doing with them. PO Cunningham never flashed the light at § 87(2)(b)'s face, nor did he prevent or attempt to interfere with § 87(2)(b)'s recording in any way (BR 05).

PO Mellas stated that neither him nor PO Cunningham aimed a flashlight at § 87(2)(b)'s phone to interfere with the recording (BR 04).

Dash camera video does not clearly show whether PO Cunningham aimed his flashlight at § 87(2)(b)'s face. A video recording provided by § 87(2)(b) shows one instance where PO Cunningham's flashlight is aimed in the direction of § 87(2)(b) and his cell phone recording for seven seconds while PO Cunningham and § 87(2)(b) are engaged in conversation regarding § 87(2)(b)'s failure to stay in his designated lane at 1:19 of the video (BR 07).

According to Patrol Guide Procedure 203-29 (BR 08) officers are not permitted to threaten, intimidate, or discourage a person from recording police activity. Officers are not permitted to intentionally block or obstruct recording devices when there is no legitimate law enforcement reason to do so.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 11).
- PO Matthew Mellas has been a member of service for seven years and this is the first CCRB complaint to which he has been a subject.
- PO Curt Cunningham has been a member of service for six years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) accepted mediation. On July 31, 2019 this case was sent to mediation. On October 4, 2019, this case was returned to investigation because PO Mellas and PO Cunningham rejected mediation.
- As of November 6, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR 12).

- § 87(2)(b) [Redacted]
[Redacted]
[Redacted]

Squad No.: 4

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date